IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.526 OF 2007

Shri Rajesh Sadanand Patil & Ors. ..Petitioners

Versus

The State of Maharashtra ..Respondent

Mr.S.M.Sabrad for the petitioners.

Mr.P.A.Pol APP for the State.

Coram : R.S.MOHITE,J

Date : 19.11.2007.

PC

1. Heard both sides. Rule. By consent, rule made returnable forthwith.

2. This petition impugns an order passed by the CJJD & JMFC Daund allowing the prayer for production of video cassette. It appears that the prosecution while examining one Mr.Pandhare who was a Tahsildar, made an application for production of the video cassette which allegedly shows the incident and the commission of the offence. JMFC allowed the application and the order has been confirmed by the Addl.Sessions Judge, Baramati vide his order dated 9.1.2007 passed in Criminal Revision Application. On perusing the impugned order it appears that the lower Courts have not

taken into account that the video cassette has sought to be introduced by the prosecution without examining photographer who had shot the video cassette. Admittedly, the prosecution evidence is still being led. The accused must be given a chance to cross-examine the person who has shot the alleged video footage in order to show that the footage is not genuine. Admittedly, the Tahsildar was not the person who shot the video footage. He merely claims to have kept the cassettee with him after taking the same from the photographer. Such video footage ought not to have been allowed by the trial Court through the evidence of said Tahsildar. In the circumstances, the petition is allowed in terms of prayer clause-(b). However, it is made clear that if the prosecution wishes to introduce the video footage on record, it will first give a copy of the said video cassettee to the accused and will be at liberty to examine the photographer who has shot the video footage and get the said proved through him. Subject to the aforesaid liberty, petition disposed off as aforesaid. Rule made absolute accordingly.

(R.S.MOHITE,J)